

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)
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)
EASTERN LIVESTOCK CO., LLC,) Case No. 10-93904-BHL-11
)
)
Debtor.) Hon. Basil H. Lorch III

**TRUSTEE'S MOTION TO APPROVE COMPROMISE AND SETTLEMENT
WITH PHILLIP TAYLOR REED AND RON P. REED**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee ("Trustee") for the bankruptcy estate (the "Estate") of Eastern Livestock Co., LLC ("Debtor"), by counsel, hereby files this motion (the "Settlement Motion") requesting the Court's approval of a compromise and settlement of claims between the Trustee, Phillip Taylor Reed ("Taylor") and Ron P. Reed ("Ron" and collectively with Taylor, the "Reeds") pursuant to the terms and conditions set forth in the Settlement Agreement and Mutual Release attached hereto as Exhibit A (the "Settlement Agreement"). In support of this Settlement Motion, the Trustee states as follows:

Introduction and Background

1. Certain petitioning creditors commenced the above-captioned chapter 11 case ("Chapter 11 Case") on December 6, 2010 (the "Petition Date"). The Court entered the *Order For Relief in An Involuntary Case and Order to Complete Filing* [Docket No. 110] on December 28, 2010.

2. On December 27, 2010, the Court entered the *Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 102] approving the *United States Trustee's Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 98] pursuant to 11 U.S.C. § 1104.

3. Taylor delivered 787 steers to Debtor on October 25-26, 2010 pursuant to a contract by which Debtor had agreed to purchase cattle from Taylor (the "Cattle Transaction"). On October 27, 2010, Debtor issued a check to Taylor in the amount of \$577,742.25, representing the remaining purchase price owed by Debtor to Taylor on account of the Cattle Transaction. Debtor's check was dishonored. On November 8, 2010 and November 12, 2010, Taylor received via wire transfer from James E. Edens IV the total sum of \$187,000 (the "Edens Transfers").

4. Taylor filed a proof of claim (the "Taylor POC") in the Chapter 11 Case. The Taylor POC is designated on the official claims register maintained by The BMC Group, Inc. as claim no. 355 and asserts a secured claim totaling \$391,741.32. The Trustee filed an objection [Dock. No. 1865] (the "Taylor Objection") to the Taylor POC.

5. Ron filed a proof of claim (the "Ron POC" and collectively with the Taylor POC, the "Reed POCs") in the Chapter 11 Case. The Ron POC is designated on the official claims register maintained by The BMC Group, Inc. as claim no. 354 and asserts a secured claim totaling \$175,044.18 plus post-petition interest. The Trustee filed an objection [Dock. No. 1900] (the "Ron Objection" and together with the Taylor Objection, the "Claim Objections") to the Ron POC.

6. Both Taylor and Ron filed responses in opposition to the Claim Objections [Docket Nos. 1985 and 1986]. A contested hearing on the Claims Objections and responses thereto is currently set for April 14, 2014.

7. The Trustee admits that Taylor holds an unsecured claim against the Estate in the amount of \$391,741.32 but disputes that the Reeds have any valid secured claim against assets of the Estate. The Trustee further believes that the Estate may have claims against

Taylor for recovery of the Edens Transfers.

8. The Trustee and the Reeds, in an effort to avoid the significant cost and expense of litigation, desire to settle their disputes upon the terms and conditions set forth in the Settlement Agreement.

The Settlement

9. The Trustee has negotiated a settlement of the Reeds' claims on the terms set forth in the Settlement Agreement. Pursuant to the Settlement Agreement, the Trustee and the Reeds shall file the Agreed Entry¹ with the Court within five (5) days of the Effective Date. Pursuant to the Agreed Entry, the Reed POCs shall be reclassified, consolidated and allowed in the Chapter 11 Case as a single unsecured claim in the amount of \$391,741.32 (the "Reed Allowed Claim"). However, pursuant to the release contained in paragraph 3 of the Agreed Entry, the Reeds shall not be entitled to, and shall waive, release and disclaim any and all rights or claims to receive distributions from the Estate on account of the Reed Allowed Claim or any other claim.

Basis for Relief

10. Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

11. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M.

¹ Capitalized terms not defined herein shall have the meaning ascribed to such terms in the Settlement Agreement.

Holloway Found, 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc. 886 F.2d 921, 927 (7th Cir. 1989).

12. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the estate.

13. If no objections to this Settlement Motion are filed, the Trustee requests that the Court enter an order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the Trustee requests that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an order in the form attached hereto as Exhibit B approving the Settlement Agreement and grant the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

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CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2014, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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